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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/644,777

08/23/2000

Roger P. Jackson

10, 033

1641

7590

06/02/2004

John C McMahon

P O Box 30069

Kansas City, MO 64112

EXAMINER

MELSON, CANDICE C

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 06/02/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/644,777

Applicant(s)

JACKSON, ROGER P.

Examiner

Candice C. Melson

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-51 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7, 9-26 is/are allowed.
- 6) ☒ Claim(s) 27-51 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

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DETAILED ACTION

1) Claims 27-51 are rejected under 35 U.S.C. 135(b) as not being made prior to one year from the date on which U.S. Patent No. 6,296,642 was granted. See *In re McGrew*, 120 F.3d 1236, 1238, 43 USPQ2d 1632,1635 (Fed. Cir. 1997) where the Court held that the application of 35 U.S.C. 135(b) is not limited to *inter partes* interference proceedings, but may be used as a basis for *ex parte* rejections.

2) Claims 27-51 of this application 09/644,777 apparently been copied from a U.S. patent without being suggested by the examiner. The patent number and the number of the copied claims have not been properly identified. 37 CFR 1.607(c).

Applicant is required to identify the patent and claim numbers and supply information explaining why a complete identification of the copied patent claim(s) has not been presented. Following applicant's reply to this requirement or the abandonment thereof, this application will be forwarded by the examiner to the Office of the Commissioner for Patents for appropriate review as noted under 37 CFR 1.607(c).

3) Claim 27-51 of this application has been copied from U.S. Patent No. 6,296,642 for the purpose of an interference.

Applicant has failed to specifically apply each limitation or element of each of the copied claim(s) to the disclosure of the application.

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Applicant is given a TIME PERIOD of THREE MONTHS from the mailing date of this communication for reply to avoid abandonment of this application.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Candice C. Melson whose telephone number is (703) 305-8128. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Candice C. Melson


KEVIN SHAVER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700